

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:)
Hidehiro UCHIMI et al.) Group Art Unit: 2834
Application No. 10/539,036) Examiner: Burton S. Mullins
Filed: 12/22/2003) Confirmation No. 5999
For: VIBRATION-GENERATING SMALL MOTOR AND PORTABLE ELECTRONIC APPARATUS) Date: June 10, 2009

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In accordance with the Pre-Appeal Brief Conference Pilot Program guidelines set forth in the July 12, 2005, Official Gazette Notice, Applicant hereby submits this Pre-Appeal Brief Request for Review of the final rejection of claims 29, 30, 35 and 36 and objection to claims 31-34 and 37-40 in the above-identified application.

Initially, as noted in the Amendment filed November 27, 2007, claim 29-34 of the present application are identical to claims 1, 2, 4, 6, 7, and 18 of *Takagi et al.* (U.S. Patent No. 7,023,114 – hereinafter *Takagi*), which have been examined and allowed by the U.S. Patent and Trademark Office. An interference proceeding is likely to be declared with *Takagi* upon the allowance of the pending claims the above-identified application.

Claims 29, 30, 35 and 36 were rejected in the Final Office Action dated December 10, 2008. Applicant filed a Response to the Final Office Action on March 10, 2009, and the Patent Office issued an Advisory Action dated March 18, 2009 maintaining the final rejections of claims 29, 30, 35 and 36. Appellant hereby appeals the rejection and objection by submitting this Pre-Appeal Brief Request for Review.

Claims 29, 30, and 35 and 36 were rejected under 35 U.S.C. §102(a) as being anticipated by *Narusawa* (US 6,081,055). The rejection is respectfully traversed as being clearly erroneous and that the cited reference fails to disclose all of the features recited in independent claims 29 and 35.

Further, claims are to be given their broadest reasonable interpretation that is consistent with the specification. Appellant respectfully asserts that the examiner fails to interpret the claim language properly and, therefore, applied an unreasonably broad interpretation of the above-mentioned claimed features.

In view of the clear error in the rejection, Appellant respectfully requests withdrawal thereof.

Independent claim 29 of the present invention is directed to a vibration motor comprised of a motor body (e.g., external housing case 3 or 13 of the motor), a motor shaft (i.e., spindle 12) projecting from the motor body, an eccentric weight (i.e., 16) attached to the motor shaft, and an attaching means (i.e., holder 33 covers the outside of the external housing case 3 or 13 of the motor) for supporting said motor body in a horizontal prone posture at one surface of a board, wherein the attaching means has a pair of attachment faces (i.e., 33e shown in amended Fig. 3 and amended paragraph [0091] of the specification filed with the Amendment of May 29, 2008) straddling said motor shaft and extending in parallel with the same at the two sides of a motor case and a plane including said pair of attachment faces (i.e., 33e) intersects with a circular orbit of the outermost point of the eccentric weight at two points.

Independent claim 35 of the present invention is directed to a vibration motor comprised of a motor body, a motor housing, a spindle projecting from the motor housing, an eccentric weight attached to the spindle, and an attaching means for supporting said motor housing in a horizontal prone posture at one surface of a board, wherein the attaching means has a pair of attachment rails (i.e., 33c) straddling said spindle and extending in parallel with the same at the two sides of a motor housing and a plane including said pair of attachment rails intersects with a circular orbit of an outermost point of the eccentric weight at two points.

In the Advisory Action, the examiner interprets Appellant's attachment means as anticipated by the "attachment" between the holder 30 and motor 20 of *Narusawa*. More specifically, the examiner contends *Narusawa* discloses "holder frame 30", a pair of "attachment faces (holding spring pieces) 33" straddling "motor shaft 22" and extending in parallel with the two sides of the "motor case 20" such that they receive and grip (i.e., attach) "motor body 20."

In response, Appellant respectfully asserts that the examiner's interpretation of a "attachment" in *Narusawa* does not meet Appellant's claimed feature wherein attaching means has a pair of attachment faces (i.e., 33e) straddling said motor shaft and extending in parallel with the same at the two sides of a motor case and a plane including said pair of attachment faces intersects with a circular orbit of the outermost point of the eccentric weight at two points, as recited in claim 29.

Further, Appellant respectfully asserts that such an interpretation of a "attachment" in *Narusawa* does not meet Appellant's claimed feature wherein attaching means has a pair of attachment rails (i.e., 33e) straddling said spindle and extending in parallel with the same at the two sides of a motor housing and a plane including said pair of attachment rails intersects with a circular orbit of an outermost point of the eccentric weight at two points, as recited in claim 35.

In order to explain Applicant's claimed feature directed to "a plane including said pair of attachment faces", Applicant provides below a marked-up Fig. 3 of the present invention and a marked-up Fig. 1C of *Narusawa*.

As shown in Applicant's marked-up Fig. 3, a plane, which is called "S" for the sake of convenience, includes a pair of attachment faces", while *Narusawa*'s marked-up Fig. 1C shows the plane "S" that only intersects the pair of spring pieces 33 (i.e., "attachment faces" 33) but does not include the pair of spring pieces 33.

Furthermore, the springs pieces 33 of *Narusawa*, being curved and extending substantially vertically in relation to the circuit board onto which it is mounted, do not and cannot lie in the same plane so as to be included in a single plane as is the case with Appellant's claimed invention.

Fig. 3 of the present application

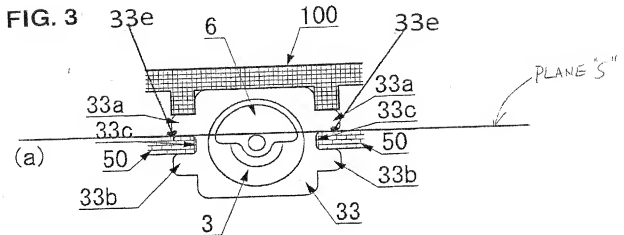
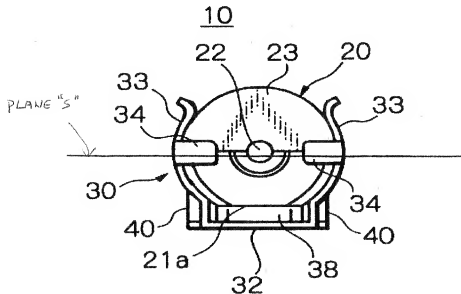


Fig. 1C of *Narusawa*

Fig. 1C



Appellant respectfully submits that the presently claimed invention is similar to that of *Takagi*, and that claim 29 of the present application is identical to claim 1 of

Takagi. Therefore, Appellant's claimed features naturally correspond to a number of features described in *Takagi*.

Appellant respectfully notes that Fig. 7 and col. 4, lines 6-10 of *Takagi* shows a plane S that correspond to Appellant's aforementioned claimed feature wherein attaching means has a pair of attachment faces straddling said motor shaft and extending in parallel with the same at the two sides of a motor case and a plane including said pair of attachment faces intersects with a circular orbit of the outermost point of the eccentric weight at two points, as recited in claim 29, for example.

Reconsideration and withdrawal of the rejections is respectfully requested, in view of the clear errors in that *Narusawa* fails to disclose all of the features recited in independent claims 29 and 35 and that the examiner fails to interpret the claim language properly and, therefore, applied an unreasonably broad interpretation of the above-mentioned claimed features in the Office Action.

In the event this paper is not being timely filed, the Appellant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-4525.

Respectfully submitted,

/Donald R. Studebaker/
Donald R. Studebaker
Registration No. 32,815

Studebaker & Brackett PC
1890 Preston White Drive
Suite 105
Reston, Virginia 20191
(703) 390-9051
Fax: (703) 390-1277
don.studebaker@sbpatentlaw.com